

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

REBECCA LUCCIA	:	
1039 N. Charlotte Street	:	
Pottstown, PA 19464	:	CIVIL ACTION
Plaintiff,	:	No.: _____
v.	:	
MONTGOMERY COUNTY	:	
INTERMEDIATE UNIT	:	
2 West Lafayette Street	:	JURY TRIAL DEMANDED
Norristown, PA 19401	:	
Defendant.	:	

CIVIL ACTION COMPLAINT

Rebecca Luccia (*hereinafter* referred to as “Plaintiff,” unless indicated otherwise) by and through her undersigned counsel, hereby avers as follows:

INTRODUCTION

1. Plaintiff has initiated this action to redress violations by Montgomery County Intermediate Unit (*hereinafter* referred to collectively as “Defendant”) of the Americans with Disabilities Act, as amended (“ADA” – 42 U.S.C. §§ 12101 *et seq.*) and the Pennsylvania Human Relations Act (“PHRA”).¹ As a direct consequence of Defendant’s unlawful actions, Plaintiff seeks damages as set forth herein.

¹ Plaintiff’s claims under the PHRA are referenced herein for notice purposes. She is required to wait 1 full year before initiating a lawsuit from the date of dual-filing with the EEOC. Plaintiff must however file her lawsuit in advance of same because of the date of issuance of his federal right-to-sue letter under the ADA. Plaintiff’s PHRA claims however will mirror identically her federal claims under the ADA.

JURISDICTION AND VENUE

2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1333(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal laws.

3. This Court may properly assert personal jurisdiction over Defendant because its contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *Int'l Shoe Co. v. Washington*, 326 U.S. 310 (1945), and its progeny.

4. Pursuant to 28 U.S.C. § 1333(b)(1) and (b)(2), venue is properly laid in this district because Defendant is deemed to reside where it is subjected to personal jurisdiction, rendering Defendant residents of the Eastern District of Pennsylvania.

5. Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) and also dual-filed said Charge with the Pennsylvania Human Relations Commission (“PHRC”). Plaintiff has properly exhausted her administrative proceedings before initiating this action under the ADA by timely filing her Charge with the EEOC, and by filing the instant lawsuit within 90 days of receiving a right-to-sue letter from the EEOC.

PARTIES

6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

7. Plaintiff is an adult individual, with an address as set forth in the caption.

8. Defendant is one of 29 intermediate units established by the Pennsylvania State Legislature in 1971 to provide local school districts with support as regional education service

agencies. The services Defendant provides includes, but is not limited to, Early Childhood Education and Head Start Programs.

9. At all times relevant herein, Defendant acted by and through its agents, servants and/or employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

FACTUAL BACKGROUND

10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

11. Plaintiff was employed with Defendant as a teacher in Defendant's Office of Early Childhood Education's Head Start Program at Defendant's Norristown location.

12. Plaintiff worked in this position from September 9, 2019 until her unlawful termination on January 9, 2020.

13. Plaintiff was primarily supervised by Defendant's Education Supervisor, Nicole Buckley (*hereinafter* "Buckley"), and Defendant's Program Administrator, Paula Rice (*hereinafter* "Rice").

14. At all relevant times during Plaintiff's employment with Defendant, Plaintiff suffered from serious and long-term back disabilities, including Disc Degeneration, Cervicalgia, Lumbalgia, Thoracic spine pain and Dysfunction of the Sacrum. Plaintiff also suffered from diabetic conditions.

15. As a result of Plaintiff's aforesaid back conditions, Plaintiff at times suffers from soreness, stiffness, and aching/acute pain, which (at times) limits her ability to perform daily life activities including, standing at times, intense physical activity, lifting at times, bending at times, and walking at times – among other daily life activities. Plaintiff is also limited at times in her

ability to regulate her blood sugar and suffers from other complications related to her diabetic conditions, including body shakes and dizziness at times when her symptoms are elevated.

16. Plaintiff's back conditions became exacerbated at the end of December 2019 following a motor vehicle accident.

17. Despite her aforementioned health conditions and limitations, Plaintiff was still able to perform the duties of her job well with Defendant; however, Plaintiff did require reasonable medical accommodations at times (discussed further *infra*).

18. Less than one week prior to Plaintiff's termination from Defendant, Plaintiff informed Buckey and Rice of her aforesaid disabilities and further requested several reasonable accommodations due to her disabilities.

19. Plaintiff specifically requested that she be permitted to sit when necessary to alleviate her back pain, that she be permitted to bring a ball chair to sit on at work to help alleviate her back pain, as well as the ability to take breaks as needed to administer medication. Plaintiff also requested permission to bring her own food in from home to consume at work as Defendant's policy required that all teaching staff eat the food that Defendant provided to the children. However, Defendant's food was not conducive to the special dietary needs Plaintiff had associated with her diabetic condition.

20. Approximately three days following Plaintiff's request for reasonable accommodations and after advising her managers of her disabilities, Plaintiff was abruptly pulled into a meeting with Buckey, Rice and Defendant's Human Resource Manager, Jack Herd and was terminated with no prior warning. During the meeting, Plaintiff was informed that she was being terminated for performance reasons. When Plaintiff asked for clarification, Plaintiff was informed

that she was being terminated for failure to turn in evaluations in a timely manner, failure to follow suggested naptime activities and for failure to follow the classroom schedule provided.

21. The reasons given to Plaintiff for her termination were completely pretextual as Plaintiff had always followed all recommendations and directions provided to her concerning classroom schedule, suggested naptime activities, was never given a specific timeline to return the evaluation forms but always turned them in as promptly as possible. Moreover, on approximately December 19, before Plaintiff informed Defendant of her disabilities and need for reasonable accommodations, Rice conducted a classroom observation of Plaintiff's class. On that same day, following Rice's observation of Plaintiff's classroom, Rice met with Plaintiff and informed her that she was impressed with the progress Plaintiff had made in her classroom, was pleased with the her observations of Plaintiff's classroom and further advised Plaintiff that the general consensus among management was that Plaintiff was moving in a very positive direction as a new teacher with Defendant. Furthermore, the same week that Plaintiff was terminated, another manager within Defendant did a classroom observation of Plaintiff's class and gave Plaintiff a positive assessment.

22. Plaintiff therefore believes and avers that she was terminated from her employment with Defendant because of her known, perceived, and/or record of disabilities and/or in retaliation for requesting reasonable medical accommodations.

COUNT I
Violations of the American's with Disabilities Act, as amended ("ADA")
(Actual/Perceived/Record of Disability Discrimination; Retaliation)

23. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

24. At all relevant times during Plaintiff's employment with Defendant, Plaintiff suffered from serious and long-term back disabilities, including Disc Degeneration, Cervicalgia, Lumbalgia, Thoracic spine pain and Dysfunction of the Sacrum. Plaintiff also suffered from diabetic conditions.

25. As a result of Plaintiff's aforesaid back conditions, Plaintiff at times suffers from soreness, stiffness, and aching/acute pain, which (at times) limits her ability to perform daily life activities including, standing at times, intense physical activity, lifting at times, bending at times, and walking at times – among other daily life activities. Plaintiff is also limited at times in her ability to regulate her blood sugar and suffers from other complications related to her diabetic conditions, including body shakes and dizziness at times when her symptoms are elevated.

26. Despite her aforementioned health conditions and limitations, Plaintiff was still able to perform the duties of her job well with Defendant; however, Plaintiff did require reasonable medical accommodations at times (as outlined above).

27. Less than one week prior to Plaintiff's termination from Defendant, Plaintiff informed Buckey and Rice of her aforesaid disabilities and further requested several reasonable accommodations due to her disabilities.

28. Plaintiff specifically requested that she be permitted to sit when necessary to alleviate her back pain, that she be permitted to bring a ball chair to sit on at work to help alleviate her back pain, as well as the ability to take breaks as needed to administer medication. Plaintiff also requested permission to bring her own food in from home to consume at work as Defendant's policy required that all teaching staff eat the food that Defendant provided to the children. However, Defendant's food was not conducive to the special dietary needs Plaintiff had associated with her diabetic condition.

29. Approximately three days following Plaintiff's request for reasonable accommodations and after advising her managers of her disabilities, Plaintiff was abruptly pulled into a meeting with Buckey, Rice and Defendant's Human Resource Manager, Jack Herd, and was terminated with no prior warning for pretextual reasons.

30. Plaintiff believes and avers that she was terminated from her employment with Defendants because of [1] her known and/or perceived disabilities; [2] her record of impairment; and [3] in retaliation for her requests for reasonable medical accommodations

31. These actions as aforesaid constitute unlawful discrimination and retaliation, under the ADA.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

A. Defendant is to be prohibited from continuing to maintain their illegal policy, practice or custom of discriminating/retaliating against employees and are to be ordered to promulgate an effective policy against such unlawful acts and to adhere thereto;

B. Defendant is to compensate Plaintiff, reimburse Plaintiff and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to past lost earnings, future lost earnings, salary, pay increases, bonuses, medical and other benefits, training, promotions, pension, and seniority. Plaintiff should be accorded those benefits illegally withheld from the date she first suffered retaliation/discrimination at the hands of Defendant until the date of verdict;

C. Plaintiff is to be awarded punitive damages, as permitted by applicable law(s) alleged asserted herein, in an amount believed by the Court or trier of fact to be appropriate to punish Defendant for its willful, deliberate, malicious and outrageous conduct and to deter Defendant or other employers from engaging in such misconduct in the future;

D. Plaintiff is to be accorded any and all other equitable and legal relief as the Court deems just, proper and appropriate including for emotional distress;

E. Plaintiff is to be awarded the costs and expenses of this action and reasonable legal fees as provided by applicable federal and state law.

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

By: 

Ari R. Karpf, Esq.
Julia W. Clark, Esq.
3331 Street Road
Two Greenwood Square
Building 2, Ste. 128
Bensalem, PA 19020
(215) 639-0801

Dated: September 29, 2020

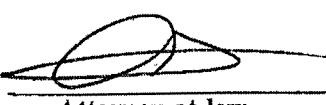
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

Rebecca Luccia v. Montgomery County Intermediate Unit	CIVIL ACTION NO.
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In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

9/30/2020		Plaintiff
Date	Attorney-at-law	Attorney for
(215) 639-0801	(215) 639-4970	akarpf@karpf-law.com
Telephone	FAX Number	E-Mail Address

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 1039 N. Charlotte Street, Pottstown, PA 19464

Address of Defendant: 2 West Lafayette Street, Norristown, PA 19401

Place of Accident, Incident or Transaction: Defendant's place of business

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 9/30/2020



Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

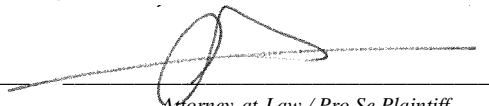
- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): _____
- 7. Products Liability
- 8. Products Liability – Asbestos
- 9. All other Diversity Cases
(Please specify): _____

I, Ari R. Karp, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs.

Relief other than monetary damages is sought.

DATE: 9/30/2020



Attorney-at-Law / Pro Se Plaintiff

ARK2484 / 91538

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

LUCCIA, REBECCA

(b) County of Residence of First Listed Plaintiff Montgomery
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Karpf, Karpf & Cerutti, P.C.; 3331 Street Road, Two Greenwood Square, Suite 128, Bensalem, PA 19020; (215) 639-0801; akarpf@karpf-law.com

DEFENDANTS

MONTGOMERY COUNTY INTERMEDIATE UNIT

County of Residence of First Listed Defendant Montgomery
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	5	5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions](#).

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	310 Airplane	365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	315 Airplane Product Liability	367 Health Care/ Pharmaceutical Personal Injury	PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	320 Assault, Libel & Slander	330 Federal Employers' Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	330 Federal Employers' Liability	368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	340 Marine	345 Marine Product Liability	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	345 Marine Product Liability	PERSONAL PROPERTY	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle	370 Other Fraud	SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	355 Motor Vehicle Product Liability	371 Truth in Lending	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	360 Other Personal Injury	380 Other Personal Property Damage	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability	362 Personal Injury - Medical Malpractice	385 Property Damage Product Liability	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:		<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	463 Alien Detainee	FEDERAL TAX SUITS	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	510 Motions to Vacate Sentence	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	530 General	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability	445 Amer. w/Disabilities - Employment	535 Death Penalty		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:		
	<input type="checkbox"/> 448 Education	540 Mandamus & Other		
		550 Civil Rights		
		555 Prison Condition		
		560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
ADA (42USC12101)

VI. CAUSE OF ACTION

Brief description of cause:
Violations of ADA and PA Human Relations Act.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 9/30/2020

SIGNATURE OF ATTORNEY-OF-RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

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